

**SOAH DOCKET NO. 582-22-07138  
TCEQ DOCKET NO. 2022-0532-DIS**

<b>PETITION FOR THE CREATION OF HIGHLAND LAKES MUNICIPAL UTILITY DISTRICT NO. 1 OF ELLIS COUNTY</b>	<b>§ § § §</b>	<b>BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS</b>
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**HIGHLAND LAKES MIDLOTHIAN I, LLC’S EXCEPTIONS TO THE PROPOSAL  
FOR DECISION**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Highland Lakes Midlothian I, LLC (“Applicant”) files its Exceptions to the Proposal for Decision (“PFD”) and respectfully shows the following:

**I. SUMMARY OF ARGUMENT**

Applicant takes exception to the PFD for the following reasons: the Commission’s creation of this general law Municipal Utility District (“MUD”), a governmental entity, will have no unreasonable effect upon water quality or the groundwater levels in the region, because: (1) the property within the MUD will be subject to the legal requirements enforced by other autonomous governmental entities to protect water quality from stormwater runoff; and (2) the planned primary source of water serving property within the MUD is *surface* water. Moreover, the MUD will be located within the jurisdictional boundaries of a political subdivision that Texas law already tasks with protecting groundwater in the region from any unreasonable impacts from any future wells or withdrawals.

Accordingly, the Commission should amend the PFD to find that Applicant satisfied its burden of proof on all issues and grant the Petition to create the MUD as requested.<sup>1</sup>

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<sup>1</sup> TWC § 2003.047(m).

## II. BACKGROUND AND PROCEDURAL STATUS

On July 23, 2021, Applicant filed its Petition for creation of Highland Lakes MUD No. 1 of Ellis County with the Texas Commission on Environmental Quality (“TCEQ” or “Commission”). The MUD would encompass approximately 2,153.6 acres and is located within the extraterritorial jurisdiction (“ETJ”) of the City of Waxahachie (“Waxahachie”) and the ETJ of the City of Midlothian (“Midlothian”). A preliminary hearing was held for this matter on September 21, 2022. State Office of Administrative Hearings (“SOAH”) Administrative Law Judge Meitra Farhadi (“ALJ”) conducted a contested case hearing on March 23-24, 2023.

On June 29, 2023, the ALJ issued the PFD, which found that Applicant met its burden of proof in all respects except: (1) whether stormwater from the MUD and its system and the subsequent development will have an unreasonable effect on water quality;<sup>2</sup> and (2) whether the MUD, its system, and the subsequent development will have an unreasonable effect on groundwater levels in the region. The PFD erroneously recommended denial of the Petition on those two grounds.

As an alternative to denial, the PFD recommended that the Commission grant the Petition after the Applicant provided additional evidence evaluating the effect of stormwater runoff from the proposed development on water quality and provide additional evidence evaluating the impact from the proposed development on the groundwater level in the region.<sup>3</sup> This is unnecessary because Applicant has already proven by a preponderance of evidence that the Petition conforms to applicable law and that the project is feasible, practicable, necessary, and beneficial to the land

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<sup>2</sup> Proposal for Decision (“PFD”) at 12-53. Accordingly, Applicant agrees with the PFD on all issues except as to the issues of groundwater levels and water quality (stormwater) effects. *See* Proposal for Decision at Sec. IV.B.3 and .5; *see also* Tex. Water Code (“TWC”) § 54.021(b)(3)(C) and (F).

<sup>3</sup> PFD at 53.

to be included in the district.<sup>4</sup> More specifically, the PFD is wrong with regard to its determination that there is insufficient evidence on the issues of water quality from stormwater runoff and groundwater levels in the region. Additionally, by misapplying the statutory requirements, the PFD would create a new regulatory process for groundwater and stormwater outside the Commission's jurisdiction and contrary to the framework established by the Legislature.

The Commission's granting of this Petition will have no unreasonable effect on water quality. As the ALJ recognized, the MUD's wastewater treatment plant will be built and operated pursuant to a Texas Pollutant Discharge Elimination System ("TPDES") permit issued by the Commission after a separate legal proceeding to ensure the discharge meets all water quality standards.<sup>5</sup> In effect, the ALJ took judicial notice of the Commission's regulations and statutes that protect water quality from an unreasonable effect. However, the ALJ failed to recognize that development of property within the MUD and the operation of the MUD's drainage system serving such property must also comply with various federal, state, and municipal water quality regulations, including the existing stormwater rules of the cities of Waxahachie and Midlothian. In other words, the property within the MUD will be subject to the legal requirements enforced by other autonomous governmental entities to protect water quality from stormwater runoff. *If* groundwater is used to serve property within the MUD, it will be a temporary measure, withdrawals will be made by another governmental entity, the Mountain Peak Special Utility District ("Mountain Peak SUD"), and such withdrawals will be subject to the permitting

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<sup>4</sup> TWC § 54.021(a).

<sup>5</sup> See TCEQ Docket No. 2023-0844-MWD, *Application by Highland Lakes Midlothian I, LLC for TPDES Permit No. WQ0015999001*. Protestants in this case have already filed hearing requests in that docket, the Executive Director has filed her Response to Comments and Applicant has requested a direct referral to SOAH (Apr. 26, 2023).

requirements and protections of the Prairielands Groundwater Conservation District (“Prairielands GCD”).<sup>6</sup>

### III. APPLICABLE LAW

In considering whether to grant a petition to create a MUD to finance, in part, the construction of water, sewer, drainage, and roadway infrastructure, the Commission must consider the following criteria:

- (a) If the commission finds that the petition conforms to the requirements of Section 54.015 and that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district, the commission shall so find by its order and grant the petition.
- (b) In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:
  - (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
  - (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
  - (3) whether or not the district and its system and subsequent development within the district will have an *unreasonable effect* on the following:
    - (A) land elevation;
    - (B) subsidence;
    - (C) groundwater level within the region;
    - (D) recharge capability of a groundwater source;
    - (E) natural run-off rates and drainage;
    - (F) water quality; and
    - (G) total tax assessments on all land located within a district.
- (c) If the commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, the commission shall so find and exclude all land which is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.
- (d) If the commission finds that the petition does not conform to the requirements of Section 54.015 of this code or that the project is not

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<sup>6</sup> The Prairielands GCD is a groundwater conservation district charged with establishing a “Comprehensive Management Plan that shall ... prevent waste, the reduction of artesian pressure, or the draw-down of the water table (emphasis added)”(see “*Prairielands GCD Bylaws*”, available at [https://www.prairielandsgcd.org/wp-content/uploads/2021/09/Bylaws-as-Adopted\\_Amended\\_08.16.21.pdf](https://www.prairielandsgcd.org/wp-content/uploads/2021/09/Bylaws-as-Adopted_Amended_08.16.21.pdf)). Consequently, no wells can be constructed to serve Applicant’s development with groundwater, unless withdrawals from such well are permitted by Prairielands GCD. Pursuant to its enabling legislation, part of Prairielands GCD’s public mission is to prevent draw-down of groundwater levels within the region regulated by the district (see ACT OF MAY 31, 2009, 81ST LEG., R.S., CH. 1208, 2009 TEX. GEN. LAWS 3859, codified at TEX. SPEC. DIST. LOC. LAWS CODE ANN. CH. 8855).

feasible, practicable, necessary, or a benefit to the land in the district, the commission shall so find by its order and deny the petition.

- (e) A copy of the order of the commission granting or denying a petition shall be mailed to each city having extraterritorial jurisdiction in the county or counties in which the district is located who requested a hearing under Section 49.011.<sup>7</sup>

The standard for the Commission’s consideration of the seven (7) items referenced in Section 54.021(b)(3)(A-G) is whether the MUD and its system and the proposed development will have an *unreasonable* effect on those seven (7) items, including water quality and groundwater levels.

#### **IV. EXCEPTIONS TO THE PFD**

##### **A. The MUD, its system, and the proposed development will not have an unreasonable effect on water quality (stormwater) in the region.**

The PFD stated the Applicant failed “to evaluate the effect of stormwater runoff from the proposed development on water quality” and that therefore “insufficient evidence was presented to establish that the [MUD] will not have an unreasonable effect on water quality.”<sup>8</sup> To the contrary, Applicant’s expert engineer, Paul McCracken, opined that the MUD “will not have an unreasonable effect on” water quality.<sup>9</sup> Mr. McCracken’s based his expert opinion on his more than 35 years of experience with designing and developing projects similar to this MUD, on similar properties in the region. He also based his opinion on the intended application of existing rules, regulations, criteria, and practices related to and applicable to the design, construction, operation, and maintenance of systems to be constructed by the MUD. Further, as a matter of law, the construction of the MUD’s system and the development of Applicant’s property within the MUD will be subject to applicable federal, state, and local regulations regarding stormwater quality, including storm water quality regulations adopted by both Waxahachie and Midlothian.

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<sup>7</sup> TWC § 54.021 (emphasis added).

<sup>8</sup> PFD at 32-42.

<sup>9</sup> Direct Testimony of Paul McCracken, Applicant Ex. 18 at 4-5.

As Mr. McCracken specifically testified, water quality will not be adversely effected because “the treatment and disposal of wastewater flows will be by means of the wastewater treatment facility[...] in compliance with its TCEQ permit.”<sup>10</sup> Additionally, Mr. McCracken testified that “... the collection, conveyance, and detention facilities for storm water emanating from the project will be designed, constructed, operated and maintained *in compliance with all federal, state, and local requirements.*”<sup>11</sup> That is, stormwater runoff and point source discharges are subject to *both* local regulations and state requirements incorporated into cities’ drainage ordinances and TCEQ’s stormwater construction permits, the multi-sector general stormwater permit, and TPDES permits.

As a matter of law, the MUD’s construction of its system and Applicant’s development of property within the MUD may not proceed until those permits are issued to limit the discharge of pollutants from a construction project. Typical requirements for the construction projects will include the installation of silt fencing around the construction site and installation of hay bales at storm drain inlets. These facilities are required to comply with all applicable stormwater pollution prevention plan (SWPPP) regulations. Examples of best management practices can be found in various ordinances, checklists, and construction document requirements of the City of Midlothian or the City of Waxahachie.<sup>12</sup> Thus, the PFD’s findings that there is inadequate evidence on these

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<sup>10</sup> *Id.* at 14 (emphasis added).

<sup>11</sup> *Id.*

<sup>12</sup> CITY STORMWATER DISCHARGE ORDINANCE, DIVISION 2, of which is *Post-Construction Runoff Control*), available at [https://www.waxahachie.com/departments/engineering\\_department/stormwater\\_management.php](https://www.waxahachie.com/departments/engineering_department/stormwater_management.php) (accessed June 12, 2023); *see also* CITY OF MIDLOTHIAN ORDINANCE NO. 2016-01, DIVISION 4; SECTION 13.09.015 of which is *Post-Construction Stormwater Runoff Requirements*), available at <https://www.midlothian.tx.us/582/Storm-Water-Management> (accessed 7/12/2023). For instance, typical requirements include the installation of silt fencing around the construction site, installation of filter devices at storm drain inlets, installation of erosion protection material or devices along curbs, check dams within constructed swales and channels, re-vegetation, and detention facilities that serve to control runoff rate and velocity.

issues ignores existing statutory and regulatory framework that protects water quality from the unreasonable effects from stormwater discharges.

The City of Midlothian and the City of Waxahachie have adopted storm water quality regulations that are applicable to development activity in its ETJ, including any development within the MUD.<sup>13</sup> Section 1.12 of City of Midlothian's subdivision ordinance, which applies to all development within that city's ETJ, specifically provides the following:

From and after the date of its adoption, this ordinance shall govern all subdivision of land within and outside of the corporate limits and the ETJ of the City as provided by law. The provisions of this ordinance shall have the same force and effect within said area of ETJ as within the corporate limits of the city, except as provided in Section 7.12 Penalty.<sup>14</sup>

Regarding protection of water quality from any stormwater impacts, that same ordinance continues by stating the following:

**Section 5.17 Storm Pollution Prevention Plan and Erosion Control.**

A stormwater pollution prevention plan (SWPPP) is required for all construction activities that disturb one (1) or more acres by the Texas Commission on Environmental Quality (TCEQ). This plan shall show proposed measures to control pollutants in stormwater discharge during and after construction operations. A section of the SWPPP shall contain an erosion control plan, signed and sealed by a professional engineer licensed in the State of Texas. A notice of intent (N.O.I.) and a notice of termination (N.O.T.) are required by TCEQ for all construction activities that disturb five (5) or more acres. A copy of the N.O.I. shall be posted at the construction site prior to commencing construction and shall be maintained at a readily available location until completion of the construction activities. The N.O.I. must be submitted and filed 48 hours prior to the start of construction. The N.O.I. must be filed upon completion of construction.

The SWPPP shall be kept at the construction site for assessment by TCEQ inspectors at all times. The SWPPP shall be kept up-to-date, and clearly indicate any and all changes made to the plan throughout construction. The TCEQ requires that inspections of the stormwater pollution measures be done on a bi-weekly basis and within 24 hours of the end of a storm event of a 0.5 inches or greater. A record of all inspections shall be kept at the construction site. Erosion control measures

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

(curlex blanket, silt fence, etc.) must be placed behind the back of curb throughout construction. All ditches or swales that are constructed shall be immediately hydro-mulched and maintained through the life of the maintenance bond period. Should any pollution prevention measure fail, the failure shall be repaired immediately.”<sup>15</sup>

The PFD ignores these stormwater ordinances that are clearly applicable to the property within the MUD and that protect water quality from any unreasonable effects from stormwater. Application of the City of Midlothian’s stormwater rules requires analysis, design, and implementation of permanent post construction control of non-point source nutrient pollutants from stormwater runoff.<sup>16</sup> Waxahachie also has similar stormwater management requirements<sup>17</sup> Separate and apart from the granting of the Petition to create the MUD, the MUD is also subject to local governments’ stormwater requirements like nearly every other residential development in the State of Texas. The cities of Midlothian and Waxahachie currently apply their stormwater rules to all developments in their corporate limits and ETJ and will apply the same to property within the MUD. For these reasons, the Commission should take judicial notice of these existing regulations that ensure the MUD, its system, and the proposed development will not have an unreasonable effect on water quality in the region.

The PER and Applicant’s testimony also stated clearly that detention systems will be constructed to control stormwater runoff.<sup>18</sup> As one example of a permanent structural measure to control pollutants caused by stormwater discharge, stormwater detention structures are listed in the City of Midlothian’s Storm Water Management Ordinance.<sup>19</sup> The project plan depicts extensive natural drainage corridors that will remain as part of the development and is regarded as

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Direct Testimony of Paul McCracken, Applicant Ex. 18 at 14 (emphasis added).

<sup>19</sup> CITY OF MIDLOTHIAN CODE OF ORDINANCES § 13.09.061(e)(8).



an effective means of sustaining water quality.<sup>20</sup> This linear system is widely dispersed and virtually all runoff from the MUD will have traveled through these systems before leaving the site.<sup>21</sup> Furthermore, nearly 600 acres, or nearly 30% of the MUD area, will be open space, which in and of itself, reduces the impacts to water quality from stormwater compared to development plans with less open space.<sup>22</sup> All of these improvements will act to minimize any stormwater impact on water quality from the development.

In summary, the development will not have *unreasonable* effects, because the MUD will adhere to all applicable federal, state, and local rules and regulations such as these local Storm Water Management programs. Moreover, the proposed development is typical and similar to others in the area that are routinely approved by both cities, and the project is without any identifiable features or challenges that will require waivers to any rules or regulations or require special consideration.<sup>23</sup> Therefore, Applicant has met its burden and the evidentiary record clearly shows that the proposed development will not have an *unreasonable* impact on water quality.

**B. The MUD, its system, and the proposed development will not have an unreasonable effect on groundwater level in the region.**

The Commission should take judicial notice of the statutory and regulatory authority of Prairielands GCD, the rules of Prairieland GCD that protect groundwater from any unreasonable effects, and the fact that the MUD, and water CCN holder that will supply water to the MUD, lie wholly within the jurisdictional boundary of Prairielands GCD. Prairielands GCD's enabling

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<sup>20</sup> Direct Testimony of Paul McCracken, Applicant Ex. 18 at 16:6-20.

<sup>21</sup> *Id.*

<sup>22</sup> Preliminary Engineering Report, Applicant Ex. 20, Table 1 at 18.

<sup>23</sup> Direct Testimony of Paul McCracken, Applicant Ex. 18 at 4-5; 14.

legislation authorizes it to control groundwater.<sup>24</sup> Prairielands GCD's mission statement is as follows:

“The Prairielands Groundwater Conservation District was created in 2009 by the 81st Texas Legislature *with a directive to conserve, protect and enhance the groundwater resources of Ellis, Johnson, Hill and Somervell Counties in Texas.* The Mission of the Prairielands Groundwater Conservation District is to *develop rules to provide protection to existing wells, prevent waste, promote conservation, provide a framework that will allow availability and accessibility of groundwater for future generations, protect the quality of the groundwater in the recharge zone of the aquifer, ensure that the residents of Ellis, Hill, Johnson, and Somervell Counties maintain local control over their groundwater, respect and protect the property rights of landowners in groundwater, and operate the District in a fair and equitable manner for all residents of the District.*”<sup>25</sup>

If Mountain Peak SUD desires to supplement its surface water source to serve property within the MUD by adding additional groundwater sources, then Mountain Peak SUD will have to obtain a permit from Prairielands GCD to drill each well.<sup>26</sup> Prairieland GCD's public charge is to ensure pumpage of groundwater in its multi-county jurisdiction does not have an unreasonable impact on groundwater levels in the multi-county area.<sup>27</sup> Thus, the pumping from any wells completed to serve property within the MUD cannot have an unreasonable impact on groundwater levels in the region, as Prairielands GCD will not allow such wells to be drilled.<sup>28</sup> Just as the ALJ recognized how the Commission's regulatory authority through the issuance of a TPDES permit will protect water quality from any unreasonable effects of point source discharges, the PFD must also

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<sup>24</sup> SPECIAL DISTRICT LOCAL LAWS CODE §§ 8855.001-152 (2009).

<sup>25</sup> Prairielands Groundwater Conservation District, *Bylaws: Amended 8/16/2021*, at 1, available at <https://www.prairielandsgcd.org/about/rules-and-bylaws/> (accessed 7/11/2023).

<sup>26</sup> Tr. at 62-63 (McCracken Cross) (March 23, 2023).

<sup>27</sup> Prairielands Groundwater Conservation District, *Bylaws: Amended 8/16/2021*, at 1, available at <https://www.prairielandsgcd.org/about/rules-and-bylaws/> (accessed June 11, 2023).

<sup>28</sup> SPECIAL DISTRICT LOCAL LAWS CODE §§ 8855.001-152.

recognize that Prairielands GCD's issuance of any future water well permits will protect the groundwater level from any unreasonable effect.

The PFD also erroneously finds that "insufficient evidence was presented to establish that the MUD and its system and the proposed development will not have an unreasonable effect on the groundwater level in the region."<sup>29</sup> However, Applicant met its burden of proof through the expert testimony of Paul McCracken, an engineer with more than 35 years of experience.

Mr. McCracken testified that the MUD "will not have an unreasonable effect on" groundwater level in the region.<sup>30</sup> As stated in the PER, the "[p]rimary water source (of drinking water) is provided via surface water sources."<sup>31</sup> The MUD's proposed development will receive water service, comprised of mostly surface water from Mountain Peak SUD pursuant to a long-term contract.<sup>32</sup>

Mr. McCracken also testified that given Mountain Peak SUD's experience and long history operating within Prairieland GCD's jurisdiction,<sup>33</sup> if it were necessary to supplement its drinking water supply with groundwater, Mountain Peak SUD was confident it would be able to drill a few wells to provide a portion of the water to serve the development.<sup>34</sup>

The statement in the PER "*[n]o facilities are proposed that will contribute to adverse impacts of groundwater levels. . . [P]rimary water source is provided via surface water sources*" was accurate at the time the PER was prepared. Primary use of surface water is still Mountain

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<sup>29</sup> PFD at 32-42.

<sup>30</sup> Direct Testimony of Paul McCracken, Applicant Ex. 18 at 4-5.

<sup>31</sup> Preliminary Engineering Report, Applicant Ex. 20 at 14 (emphasis added).

<sup>32</sup> Tr., at 62-63 (McCracken Cross) (March 23, 2023).

<sup>33</sup> Tr. at 59-61 (McCracken Cross) March 23, 2023. Mountain Peak SUD's general manager is also on the Board of Directors for the Groundwater Conservation District.

<sup>34</sup> Tr. at 59-61 (McCracken Cross) (March 23, 2023).

Peak SUD's plan. Mountain Peak SUD proposed to serve the initial phases of development (approximately 1,500 units), with a mix of groundwater and surface water as the primary source, including two new wells proposed within the MUD.<sup>35</sup> Any such groundwater withdrawals are subject to the legislatively created Prairielands GCD's oversight and operating permits, which cannot unreasonably affect the groundwater levels in the region by definition.

Finally, since the MUD would not be withdrawing groundwater directly, and that service is provided by Mountain Peak SUD, the Commission's creation of the MUD cannot have an unreasonable effect on groundwater levels. However, as set forth above, since all withdrawals will be subject to Prairielands GCD's permitting authority, any withdrawals would be reasonable as a matter of law.

## **V. REVISIONS TO THE PROPOSED ORDER**

For these reasons, Applicant respectfully requests that the Proposed Order be amended by substituting the following language in Findings of Fact Nos. 32, 34, and 35 in the PFD:

32. The production capacity of both SUDs is primarily reliant on groundwater and the proposed development will primarily rely upon surface water or groundwater sources approved by Prairielands Groundwater Conservation District to ensure no unreasonable impacts are made upon groundwater sources in the region.

[...]

34. Applicant evaluated the impacts of the proposed development on groundwater levels and determined that compliance with all local, state, and federal groundwater rules, including Prairielands Groundwater Conservation District's rules and permitting regulations, will not have an unreasonable impact on groundwater level in the region

35. Sufficient evidence has been presented to establish that Applicant's proposed development will not have an unreasonable effect on the groundwater level in the region.

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<sup>35</sup> *Id.*

Applicant respectfully requests that the following language be substituted for Findings of Fact Nos. 45-46 and that Finding of Fact No. 44 be struck from the Proposed Order because of its inapplicability to the determination of whether the proposed development will have an unreasonable impact on water quality:

~~44. Neither the County, Waxahachie, nor Midlothian have non-point-source pollution requirements.~~

45. Applicant evaluated the impacts of the proposed development on stormwater quality and evaluated the effect of stormwater runoff from the proposed development on water quality and determined the proposed development will not have an unreasonable impact on water quality because it will follow all applicable regulations regarding water quality and because the proposed development will not have any anticipated impacts worse than similar, existing developments in the vicinity of the proposed development.

46. Sufficient evidence has been presented to establish that Applicant's proposed development will not have an unreasonable effect on water quality.

In addition, Applicant respectfully requests that the following language be substituted for Finding of Fact No. 51:

51. Applicant demonstrated and provided sufficient evidence to establish that the District is feasible, practicable, necessary and will benefit all of the land included in the District.

Also, Applicant respectfully requests that the following language be substituted for Conclusions of Law Nos. 7-8, 14, and 18:

7. Sufficient evidence was presented to establish the District will not have an unreasonable effect on water quality. Tex. Water Code § 54.021(b)(1) and 30 Tex. Admin. Code § 293.11(d)(5)(G).

8. Sufficient evidence was presented to establish that the proposed development will not have an unreasonable effect on the groundwater level in the region. Tex. Admin. Code § 293.11(d)(5)(H)(iii).

[...]

14. Sufficient evidence was presented to establish the project is feasible, practicable, and necessary and would be a benefit to the land included in the

District. Tex. Water Code § 52.021; 30 Tex. Admin. Code § 293.11(d)(5)(J).

[...]

18. Applicant's Petition should be approved.

Lastly, Applicant respectfully requests that the following language be substituted for Ordering Paragraph No. 1:

1. The Petition for Creation of Highland Lakes Municipal Utility District No. 1 of Ellis County is approved.

## **VI. CONCLUSION**

The Commission's creation of this MUD will have no unreasonable effect upon the groundwater levels in the region, because: (1) ) the property within the MUD will be subject to the legal requirements enforced by other autonomous governmental entities to protect water quality from stormwater runoff; and (2) the MUD will be located within the jurisdictional boundaries of a political subdivision that Texas law already tasks with protecting groundwater in the region from any unreasonable impacts from any future wells or withdrawals.

Just as the ALJ recognized how the Commission's regulatory permitting schedule will protect the water quality in receiving streams from a point source discharge, the Commission must also recognize that development of property must also comply with various federal, state, and municipal water quality regulations, including the existing stormwater rules of the cities of Waxahachie and Midlothian. The property within the MUD will be subject to the legal requirements enforced by other autonomous governmental entities to protect water quality from stormwater runoff.

Therefore, Applicant requests the Commission (1) amend the PFD to find that Applicant satisfied its burden of proof that the MUD, its system, and the proposed development will not

cause an unreasonable effect upon groundwater levels in the region or water quality and (2) grant the Petition and create the MUD as requested.

## **VII. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Applicant respectfully requests that the Texas Commission on Environmental Quality amend the Proposal for Decision consistent with the Applicant's recommendation.

Respectfully submitted,

**COATS | ROSE**

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**ATTORNEYS FOR APPLICANT**

## **CERTIFICATE OF SERVICE**

I hereby certify that on July 19, 2023, a copy of the foregoing Pleading was served on all person listed either via hand delivery, facsimile transmission, electronic mail, and/or by deposit in the U.S. Mail.

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